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Attorneys for Defendant
SENORX, INC.

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

HOLOGIC, INC., CYTYC CORP., and
HOLOGIC L.P.,

Plaintiffs,

v.

SENORX, INC.,

Defendant.

CASE NO.: C08 0133 RMW

**MOTION FOR ADMINISTRATIVE
RELIEF FOR PERMISSION TO
FILE SUPPLEMENTAL CLAIM
CONSTRUCTION BRIEFS
PURSUANT TO CIVIL LOCAL
RULES 7-11 AND 7-12**

MOTION FOR ADMINISTRATIVE RELIEF
FOR PERMISSION TO FILE
SUPPLEMENTAL CLAIM CONSTRUCTION
BRIEFS

CASE NO. C08 0133 RMW

1 Plaintiffs Hologic, Inc., Cytac Corporation, and Hologic L.P. and Defendant SenoRx, Inc.
 2 hereby jointly move, pursuant to Civil Local Rule 7-11, for permission to file two-page
 3 supplemental claim construction briefs on the limited issue of the construction of certain language
 4 in claim 8 of U.S. Patent No. 6,482,142 (“the ‘142 patent”). In support of this motion, the parties
 5 submit a stipulation pursuant to Civil Local Rule 7-12.

6 The parties are not seeking any revisions to the Court’s previous construction of disputed
 7 terms in claim 8 (construing “the expandable outer surface is sufficiently rigid to deform the target
 8 tissue “ to mean “the expandable outer surface element is sufficiently rigid so as to be capable of
 9 deforming tissue. This does not require that the expandable outer surface actually deforms the
 10 target tissue.”), Dkt. No. 269 (Cl. Constr. Order) at 25. Based on the Court’s Summary Judgment
 11 Order, however, the parties determined that some additional explanation for the jury would be
 12 helpful with respect to the scope and meaning of the language of claim 8. The parties were unable
 13 to agree on the wording of such an explanation, however.

14 Accordingly, the parties request that the Court consider and issue a ruling on the parties’
 15 supplemental claim construction of the disputed term. Plaintiffs’ supplemental claim
 16 construction brief is attached as Exhibit A to this Motion. Defendant’s supplemental claim
 17 construction brief is attached as Exhibit B to this Motion.

18 **ON BEHALF OF HOLOGIC, INC., CYTAC CORPORATION, AND HOLOGIC L.P.:**

19 Dated: November 18, 2009

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Attorneys for Plaintiffs
HOLOGIC, INC., CYTYC CORPORATION, AND
HOLOGIC L.P

ON BEHALF OF SENORX, INC.:

Dated: November 18, 2009

WILLIAMS & CONNOLLY LLP

By: /s/ Aaron P. Maurer

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Attorneys for Defendant
SENORX, INC.

Filer's Attestation

I, Kendra P. Robins, am the ECF User whose identification and password are being used to file this Motion for Administrative Relief for Permission to File Supplemental Claim Construction Briefs. Pursuant to General Order No. 45, ¶ X(B), I attest under penalty of perjury that concurrence in the filing of the document has been obtained from John Nilsson

By: /s/ Kendra P. Robins
Kendra P. Robins

CERTIFICATE OF SERVICE

U.S. District Court, Northern District of California,
Hologic, Inc. et al. v. SenoRx, Inc.
Case No. 08-CV-0133 RMW

I, Kendra P. Robins, declare:

I am and was at the time of the service mentioned in this declaration, employed in the County of San Diego, California. I am over the age of 18 years and not a party to the within action. My business address is 725 12th St. NW; Washington DC 20005.

On November 18, 2009, I served a copy(ies) of the following document(s):

**MOTION FOR ADMINISTRATIVE RELIEF FOR PERMISSION TO FILE
SUPPLEMENTAL CLAIM CONSTRUCTION BRIEFS PURSUANT TO CIVIL
LOCAL RULES 7-11 AND 7-12**

**EXHIBIT A TO MOTION FOR ADMINISTRATIVE RELIEF FOR PERMISSION TO
FILE SUPPLEMENTAL CLAIM CONSTRUCTION BRIEFS PURSUANT TO CIVIL
LOCAL RULES 7-11 AND 7-12: PLAINTIFFS' SUPPLEMENTAL CLAIM
CONSTRUCTION BRIEF**

**EXHIBIT B TO MOTION FOR ADMINISTRATIVE RELIEF FOR PERMISSION TO
FILE SUPPLEMENTAL CLAIM CONSTRUCTION BRIEFS PURSUANT TO CIVIL
LOCAL RULES 7-11 AND 7-12: DEFENDANT'S SUPPLEMENTAL CLAIM
CONSTRUCTION BRIEF**

**STIPULATION IN SUPPORT OF MOTION FOR ADMINISTRATIVE RELIEF FOR
PERMISSION TO FILE SUPPLEMENTAL CLAIM CONSTRUCTION BRIEFS
PURSUANT TO CIVIL LOCAL RULES 7-11 AND 7-12**

**[PROPOSED] ORDER GRANTING MOTION FOR ADMINISTRATIVE RELIEF
FOR PERMISSION TO FILE SUPPLEMENTAL CLAIM CONSTRUCTION BRIEFS
PURSUANT TO CIVIL LOCAL RULES 7-11 AND 7-12**

on the parties to this action by placing them in a sealed envelope(s) addressed as follows:

| | |
|--|--|
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| Robert Ruyak (ruyakr@howrey.com) Matthew Wolf (wolfm@howrey.com) Marc Cohn (cohenm@howrey.com) HOWREY LLP 1229 Pennsylvania Avenue, NW Washington, DC 20004 Telephone: (202) 783-0800 Facsimile: (202) 383-6610 | Attorneys for Plaintiffs HOLOGIC, INC. CYTYC CORPORATION and HOLOGIC LP |

- ☐ (BY MAIL) I placed the sealed envelope(s) for collection and mailing by following the ordinary business practices of Wilson Sonsini Goodrich & Rosati, 12235 El Camino Real, Ste. 200, San Diego, CA. I am readily familiar with WSGR's practice for collecting and processing of correspondence for mailing with the United States Postal Service, said practice being that, in the ordinary course of business, correspondence with postage fully prepaid is deposited with the United States Postal Service the same day as it is placed for collection.
- ☐ (BY OVERNIGHT DELIVERY) I placed the sealed envelope(s) or package(s), to the addressee(s) noted above, designated by the express service carrier for collection and overnight delivery by following the ordinary business practices of Wilson Sonsini Goodrich & Rosati, 12235 El Camino Real, Ste. 200, San Diego, CA. I am readily familiar with WSGR's practice for collecting and processing of correspondence for overnight delivery, said practice being that, in the ordinary course of business, correspondence for overnight delivery is deposited with delivery fees paid or provided for at the carrier's express service offices for next-day delivery the same day as the correspondence is placed for collection.
- ☒ (BY CM/ECF) I caused such document(s) to be sent via electronic mail through the Case Management/Electronic Case File system with the U.S. District Court for the Northern District of California.

I declare under penalty of perjury under the laws of the United States that the above is true and correct, and that this declaration was executed on November 18, 2009.

/s/ Kendra P. Robins
 Kendra P. Robins